

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.**

WRIT PETITION NO.3242. OF 2006

Ajinath Ganpat Sonawane,	.. Petitioner (Orig.Deft.no.1)
Vs	
Bhivarabai Ajinath Sonawane & ors	.. Respondents (R.No.1-plaintiff)

Mr I.M.Khairdi, for the petitioner.
Mr Pramod Patil, for respondent no.1.
Mr S.S.Deshmukh, for respondent no.3.

CORAM :	D.B.BHOSALE, J.
DATE :	30.08.2006

PC:

1. Heard the learned counsel for the parties.
2. Rule. Returnable forthwith. The learned counsel waive service for the respondents. By consent, rule is heard forthwith.
3. By this petition, the petitioner has impugned the orders dated 13.1.2006 and 17.2.2006 passed below Exhibit-1 and Exhibit-124 respectively. By the first order dated 13.1.2006 the trial Court closed the evidence of the petitioner-defendant and by the second order dated 17.2.2006 his application for setting aside the order dated 13.1.2006 and allowing him to lead evidence has been rejected. The petitioner is the defendant and he was asked to begin in view of the issues framed for determination. It appears that he filed an affidavit in lieu of his examination-in-chief,

however, due to some health problem he could not offer himself for cross-examination and after waiting for quite some time the impugned order came to be passed. Though I do not find anything wrong with the orders, I am satisfied that the ends of justice would be met if the petitioner is allowed to offer himself for cross-examination. Hence, I pass the following order.

(i) The petitioner-defendant shall offer himself for cross-examination and his cross-examination may be recorded by the trial Court as expeditiously as possible and preferably within a period of four weeks from the date of receipt of this order. If for any reason the petitioner-defendant does not make himself available for cross-examination, his evidence may be treated as closed and in that event the trial court shall proceed with the case further.

(ii) It is open for the respondent-plaintiff to file an additional affidavit in lieu of the examination-in-chief, if he so desires, after the cross-examination of the petitioner-defendant is over.

(iii) The trial Court shall decide the suit expeditiously. Rule is accordingly disposed of.

(D . B . BHOSALE , J .)